

**United States Court of Appeals**

Eleventh Circuit  
56 Forsyth Street, N.W.  
Atlanta, Georgia 30303

**Thomas K. Kahn**  
Clerk

November 29, 2002

Clarence Maddox  
Clerk, U.S. District Court  
301 N. Miami Avenue  
Miami FL 33128

RE: 02-15942-A USA v. John Mamone  
DC DKT NO.: 00-06309 CR-PAS

InReplyTo Give Number  
Of Case And Names of Parties

FILED by	_____	D.C.
APPEAL		
DEC - 5 2002		
CLARENCE MADDOX CLERK U.S. DIST. CT. S.D. OF FLA. MIAMI		

Enclosed is a certified copy of an order remanding the referenced appeal for further proceedings.  
**JURISDICTION OF THIS APPEAL IS BEING RETAINED BY THE ELEVENTH CIRCUIT.**

Upon completion of remand proceedings, please promptly send a certified copy of the ORDER ON REMAND accompanied by an updated indexed district court docket sheet to this office.

This case will be held in abeyance and monitored in the Eleventh Circuit pending disposition of remand proceedings in your court.

The district court clerk is requested to acknowledge receipt on the copy of this letter enclosed to the clerk.

Sincerely,

THOMAS K. KAHN, Clerk

Reply To: Mary Marshall/caw (404) 335-6180

Enclosures:

Volume(s) of Record

Box(es) of Exhibits

Envelope(s) of Exhibits

**LIMITED REMAND**



CLK-3 (8-2002)

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

No. 02-15942-A

U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

NOV 20 2002

THOMAS K. KAHN  
CLERK

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOHN MAMONE,

Defendant-Appellant.

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Appeal from the United States District Court for the  
Southern District of Florida

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Before: DUBINA and MARCUS, Circuit Judges.

BY THE COURT:

Because the notice of appeal was not filed or certified as mailed within ten days of the September 17, 2002, entry of the challenged order, John Mamone failed to perfect a timely appeal of that order. See Fed.R.App.P. 4(b)(1)(A), (c)(1); Houston v. Lack, 487 U.S. 266, 276, 108 S.Ct. 2379, 2385, 101 L.Ed.2d 245 (1988). Because, however, he filed the notice of appeal within the additional time permitted for filing a motion for extension of time to appeal, it is construed as such a motion. See Rule 4(b)(4); Houston, 487 U.S. at 276, 108 S.Ct. at 2385; United States v. Ward, 696 F.2d 1315, 1317-18 (11th Cir.), cert. denied, 461 U.S. 934 (1983). Accordingly, this case is REMANDED to the district court for a determination of excusable neglect or good cause. Upon

entry of its order making this determination, the district court shall return the record, as supplemented, to this Court for further consideration.

A TRUE COPY ATTESTED:  
CLERK U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT  
BY: *[Signature]*  
DEPUTY CLERK  
ATLANTA, GEORGIA